

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

THE CONSTRUCTION INDUSTRY)
RETIREMENT FUND OF ROCKFORD,)
ILLINOIS and THE CONSTRUCTION)
INDUSTRY WELFARE FUND OF)
ROCKFORD, ILLINOIS,) District Judge: Frederick J. Kapala
)
Plaintiffs,) Magistrate Judge: P. Michael Mahoney
)
vs.) Case No: 11-cv-50090
)
MIKE FASULA CONCRETE)
CONSTRUCTION, INC., an Illinois)
corporation, and Michael Fasula,)
individually,)
)
Defendants.)

**MOTION FOR ENTRY OF DEFAULT JUDGMENT
IN A SUM CERTAIN**

The Construction Industry Retirement Fund of Rockford, Illinois, and The Construction Industry Welfare Fund of Rockford, Illinois, (hereinafter referred to as "plaintiffs" or "the Funds") state as follows for their Motion for Entry of Default Judgment in a Sum certain against defendant, Mike Fasula Concrete Construction, Inc.:

1. Plaintiffs filed a complaint in this matter on March 30, 2011.(Dkt # 1).
2. Defendant was served with the complaint and Summons on April 6, 2011, making its responsive pleading due no later than April 27, 2011. (Dkt # 10).
3. An answer was filed on behalf of Defendant.
4. An amended complaint was filed on March 12, 2012, naming Michael Fasula individually.

5. On April 2, 2012, a motion to withdraw was filed by attorneys for defendants.

6. On April 25, 2012, the motion to withdraw was granted by the court.

7. On June 13, 2012, the District Court entered an Order finding defendants in default for failing to file a responsive pleading. (Dkt # 44).

8. To date, defendants have not had an appearance filed on their behalf or filed any form of responsive pleading.

9. Pursuant to the complaint, defendants are liable for unpaid contributions to the Funds and late fees which were accrued beginning June 2006 and intermittently thereafter, pursuant to the collective bargaining agreement and subsequent trust agreements to which defendants are bound.

10. According to the Affidavit of Shelli McPeek on behalf of the Funds, attached hereto as Exhibit A, defendants are liable for \$142,959.92 in unpaid contributions, audit fees, and liquidated damages, all of which are recoverable under the applicable agreements.

11. The Declaration Regarding Attorney's Fees, attached as Exhibit B, indicates that an additional \$13,386.05 is due and owing for the costs and attorneys fees incurred in pursuing this case against defendants, the recovery of which is provided for in the applicable agreements.

12. Based upon the forgoing, a default judgment should enter under Rule 55(b) in the amount of \$142,959.92 (\$129,573.87 in unpaid contributions, liquidated damages, and audit costs , plus \$13,386.05 in attorney's fees and costs = \$142,959.92).

WHEREFORE, Plaintiffs respectfully move this Court for entry of a default judgment against defendants in the amount of \$142,959.92.

THE CONSTRUCTION INDUSTRY RETIREMENT
FUND OF ROCKFORD, ILLINOIS & THE
CONSTRUCTION INDUSTRY WELFARE FUND
OF ROCKFORD, ILLINOIS , Plaintiffs

By: WilliamsMcCarthy LLP

/s/ Troy E. Haggiestad

CERTIFICATE OF LAWYER AND NOTICE OF ELECTRONIC FILING

The undersigned certifies that:

- 1) On July 23, 2012, the foregoing document was electronically filed with the District Court Clerk via CM/ECF filing system; and

- 2) On July 23, 2012, the foregoing document was placed in the U.S. mail with postage paid, addressed to the following:

Mike Fasula Concrete Construction, Inc. And
Michael Fasula, individually
c/o John M. Gilbert, Registered Agent
5010 North Second Street
Loves Park, IL 61111

/s/ Troy E. Haggestad

Troy E. Haggestad (#06229384)
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